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09/657,679

09/08/2000

Marc A. Edlein

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08/10/2007

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EXAMINER

MIGGINS, MICHAEL C

ART UNIT

PAPER NUMBER

1772

MAIL DATE

DELIVERY MODE

08/10/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/657,679

Applicant(s)

EDLEIN ET AL

Examiner

Michael C. Miggins

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 5/10/07.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-73 and 75-112 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-73 and 75-112 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

REJECTIONS WITHDRAWN

There are no rejections withdrawn.

REJECTIONS REPEATED

All of the 103 rejections set forth in the non-final rejection of 12/6/06, pages 2-3, paragraphs 3-5 are repeated for the reasons of record.

NEW REJECTIONS

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 107-109 and 112 are rejected under 35 U.S.C. 103(a) as being unpatentable over Patrick et al. (US 6060136) in view of Elms (US 3976614).

Patrick discloses wherein the film has a roll form (column 13, lines 19-31).

5. Claims 110-111 are rejected under 35 U.S.C. 103(a) as being unpatentable over Patrick et al. (US 6060136) in view of Elms (US 3976614), as applied to claims 1-26, 36, 39, 56-61, 77, 87 and 93-94, 96, and further in view of Fairbanks (US 4008115).

Patrick discloses wherein the film has a roll form (column 13, lines 19-31).

ANSWERS TO APPLICANT'S ARGUMENTS

Applicant's arguments filed 5/10/07 have been carefully considered but are deemed unpersuasive.

Applicant has argued that Patrick fails to disclose that the image comprises a cured ink selected from the group consisting of radiation-cured inks and thermoset inks. However, Elms discloses thermoset inks (column 5, line 59 through column 6, line 7).

Applicant argues that Patrick does not disclose radiation cured varnishes. However, Fairbanks discloses radiation cured varnishes (column 4, lines 15-30).

Thus the combined references read on applicant's independent claims as written.

With regard to claims 7, 32, 73, 85, 104, 50-51, 67-68, 100-101 finding the workable or optimum ranges is obvious and within the level of one of ordinary skill in the art (MPEP 2144) absent clear and convincing evidence of an unexpected result in declaration or affidavit form. It would have been obvious to one of ordinary skill in the art to have provided applicant's claimed ranges in order to provide improved packaging properties and/or improved water resistance.

With regard to claims 8-10, 20-24 and 57-61, these claims are all drawn to the radiation-cured ink which is part of the Markush group in the independent claims. These elements need not be disclosed since thermosetting inks are disclosed by Elms and the prior art reads on the Markush group as written. In other words since the prior art reads on the thermosetting ink in the Markush group the prior does not have to read

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on the radiation-cured inks, or the dependent claims describing the radiation-cured inks, in the Markush group.

Applicant argues that Fairbanks fail to disclose thermoset urethane-based overprint varnish. However, Fairbanks discloses that the varnishes are thermoset since they are crosslinked (column 4, lines 15-30). The reaction products of polyisocyanate and 1,4 butanediol diacrylate is a polyurethane or very similar to a polyurethane. Therefore, Fairbanks teaches or suggests a thermoset urethane-based overprint varnish.

With regard to claims 48-49, 65-66 and 98-99, the radiation exposure comprising electron-beam radiation of a particular energy is a method limitation in a product claim. These method limitations have been given little patentable weight since method limitations are not germane to the patentability of a product in a product claim (MPEP 2113).

With regard to applicant's alleged unexpected results, applicant has not provided the allegation of unexpected results in declaration or affidavit form in accordance with MPEP 716.02(g). Furthermore, applicant has not compared the instant invention with the closest prior art Patrick, Elms and Fairbanks. Furthermore, the alleged unexpected results are not commensurate in scope with claims 1-26 because the independent claims do not recite an overprint varnish selected from the group consisting of radiation-cured varnishes or thermoset varnishes.

Conclusion

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1. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C. Miggins whose telephone number is 571-272-1494. The examiner can normally be reached on 1:00-10:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571-272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Michael C. Miggins
Primary Examiner
Art Unit 1772



MCM
August 2, 2007